

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
HANEFLEX SALES & SERVICES (HK) CO. LTD.)
Unit 5, 5/F)
Yuen Fat Industrial Building)
25 Wang Chiu Road) Docket No. 00-BXA-01
Kowloon Bay, Kowloon)
Hong Kong,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against Haneflex Sales & Services (HK) Co. Ltd. (Haneflex) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),² based on allegations that, on or about January 10,

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp 294 (1999)), and August 10, 1999 (64 *Fed. Reg.* 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

² The alleged violations occurred in 1995. The Regulations governing the violations at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured. The restructured Regulations establish the procedures that apply to this matter.

1995, Haneflex sold and transferred U.S.-origin diffusion pumps to Shun Fat Metal & Iron Works, a company in Hong Kong, knowing or having reason to know that the sale and transfer of the pumps were contrary to the conditions on the license issued by BXA for the export of the U.S.-origin item to Haneflex, in violation of Sections 787.4(a) and 787.6 of the former Regulations; and

BXA and Haneflex having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, a civil penalty of \$20,000 is assessed against Haneflex, which shall be paid to the U.S. Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Haneflex will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, Haneflex, Unit 5, 5/F, Yuen Fat Industrial Building, 25 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong, and all of its successors and assigns, officers, representatives, agents and employees, may not, for a period of five years from the date of this Order, participate, directly or indirectly, in any way in any transaction involving any

commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FOURTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted

acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States that is owned, possessed or controlled by a denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

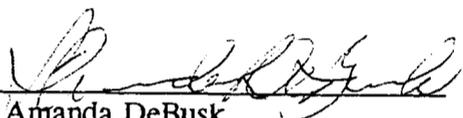
FIFTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

SIXTH, that as authorized by Section 766.18(c) of the Regulations, the five year denial period set forth in paragraph in THIRD shall be suspended for a period of five years from the date of the entry of this Order and shall thereafter be waived, provided that during the period of suspension, Haneflex has committed no violation of the Act or any regulation, order or license issued thereunder.

SEVENTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18(b) of the Regulations.

EIGHTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


F. Amanda DeBusk
Assistant Secretary for Export Enforcement

Entered this 11th day of April, 2000.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)	
)	
HANEFLEX SALES & SERVICES (HK) CO. LTD.)	
Unit 5, 5/F)	
Yuen Fat Industrial Building)	
25 Wang Chiu Road)	Docket No. 00-BXA-01
Kowloon Bay, Kowloon)	
Hong Kong,)	
)	
<u>Respondent</u>)	

SETTLEMENT AGREEMENT

This Agreement is made by and between Haneflex Sales & Services (HK) Co. Ltd. (Haneflex) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

¹ The alleged violations occurred in 1995. The Regulations governing the violations at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured. The restructured Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp 294 (1999)), and August 10, 1999 (64 *Fed. Reg.* 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has initiated an administrative proceeding against Haneflex pursuant to the Act and the Regulations, based on allegations that on or about January 10, 1995, Haneflex sold and transferred U.S.-origin diffusion pumps to Shun Fat Metal & Iron Works, a company in Hong Kong, knowing or having reason to know that the sale and transfer of the pumps were contrary to the conditions on the license issued by BXA for the export of the U.S.-origin item to Haneflex, in violation of Sections 787.4(a) and 787.6 of the former Regulations;

WHEREAS, Haneflex has received notice of issuance of the Charging Letter pursuant to Section 766.3(b) of the Regulations;

WHEREAS, Haneflex has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Haneflex fully understands the terms of this Settlement Agreement and the Order; Haneflex enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and Haneflex states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Haneflex neither admits nor denies the allegations contained in the Charging Letter;

WHEREAS, Haneflex wishes to settle and dispose of all matters alleged in the Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Haneflex agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, Haneflex and BXA agree as follows:

1. BXA has jurisdiction over Haneflex, under the Act and the Regulations, in connection with the matters alleged in the Charging Letter.
2. BXA and Haneflex agree that the following sanctions shall be imposed against Haneflex in complete settlement of all alleged violations of the Act and the former Regulations arising out of the transaction set forth in the Charging Letter:
 - (a) Haneflex shall be assessed a civil penalty of \$20,000, which shall be paid to the U.S. Department of Commerce within 30 days of the date of entry of an appropriate Order;
 - (b) Haneflex and all of its successors and assigns, officers, representatives, agents and employees, may not, for a period of five years from the date of the appropriate Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the

United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

(c) BXA agrees that, as authorized by Section 766.18(c) of the Regulations, the five year denial period set forth in paragraph in 2(c) shall be suspended for a period of five years from the date of the entry of the appropriate Order and shall thereafter be waived, provided that during the period of suspension, Haneflex has committed no violation of the Act or any regulation, order or license issued thereunder.

3. Haneflex agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Haneflex in connection with any violations of the Act or the former Regulations arising out of the transaction identified in the Charging Letter.

5. Haneflex understands that BXA will make the Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Haneflex agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BXA and Haneflex agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

HANEFLEX SALES & SERVICES
(HK) CO. LTD.

BY: Karen Day
Karen Day
Chief Counsel
Office of Chief Counsel
for Export Administration

BY: Eddie W.H. Chan
Eddie W.H. Chan
Managing Director

Date: 6 April 2000

Date: 30th March, 2000



JAN 1 2000

JAN - 4 2000

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Haneflex Sales & Services (HK) Co. Ltd.
Unit 5, 5/F
Yuen Fat Industrial Building
25 Wang Chiu Road
Kowloon Bay, Kowloon
Hong Kong

Attention: Eddie W.H. Chan
Managing Director

Dear Mr. Chan:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Haneflex Sales & Services (HK) Co. Ltd. (Haneflex) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

¹ The alleged violations occurred in 1995. The Regulations governing the violations at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured. The restructured Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 *Fed. Reg.* 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



Facts constituting violations:

Charges 1 - 2

On or about January 10, 1995, Haneflex sold and transferred U.S.-origin diffusion pumps to Shun Fat Metal & Iron Works, a company in Hong Kong. At the time of the sale and transfer, Haneflex knew or had reason to know that the sale and transfer of the pumps were in violation of the conditions on the license issued by BXA for the export of the pumps from the United States to Haneflex, which provides that, *inter alia*, "no resale, transfer, or reexport of the items listed on this license is authorized without prior authorization by the U.S. Government." BXA alleges that, in so doing, Haneflex disposed of, diverted or otherwise shipped commodities in violation of or contrary to the terms, provisions, or conditions of the Act or any regulation, order, or license issued thereunder, and thereby committed one violation of Section 787.6 of the former Regulations. BXA also alleges that, by selling or transferring commodities with knowledge or reason to know that a violation of the Act or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur, Haneflex committed one violation of Section 787.4(a) of the former Regulations.

BXA alleges that Haneflex committed one violation each of Section 787.4(a) and 787.6 for a total of two violations of the former Regulations.

Accordingly, Haneflex is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Haneflex fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Haneflex is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Haneflex's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Haneflex's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee
Director
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE:
April 11, 2000
www.bxa.doc.gov

Contact: Eugene Cottilli
(202) 482-2721
(202) 482-2421 (fax)

**HONG KONG COMPANY SETTLES CHARGES
OF ILLEGAL TRANSFER**

WASHINGTON -- Commerce Assistant Secretary for Export Enforcement F. Amanda DeBusk today announced a \$20,000 civil penalty imposed on Haneflex Sales and Services Ltd., a Hong Kong trading and distribution company, for alleged violations of the Export Administration Regulations.

The Commerce Department alleged that in January 1995 Haneflex sold and transferred U.S. origin diffusion pumps to Shun Fat Metal and Iron Works in Hong Kong in violation of conditions in a Commerce license that had authorized the original export of the equipment from the United States to Hong Kong. The Department also alleged that Haneflex acted with knowledge that a violation of the Export Administration Regulations would occur.

Haneflex has also agreed to a 5 year denial of export privileges (suspended) as part of today's settlement. Commerce's San Jose Office of Export Enforcement investigated the case.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of National Security, Foreign Policy, Nonproliferation and Short Supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the Regulations.